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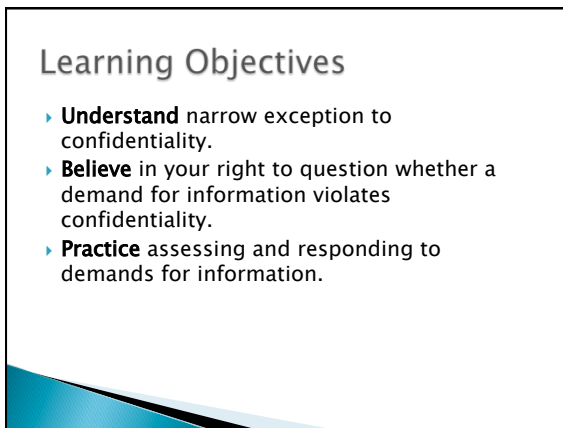
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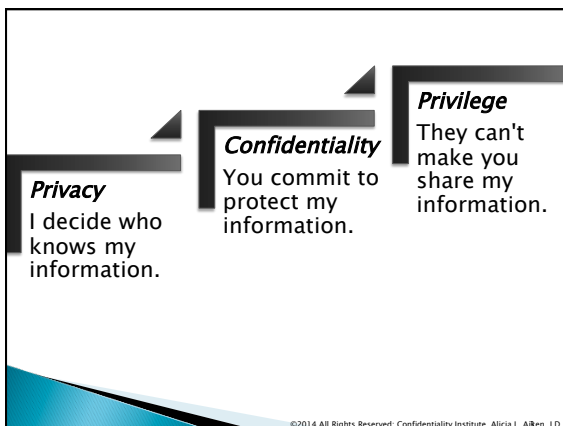
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**Individuals**

need privacy to exercise control over life situations.

**Professionals**

promise confidentiality to build working relationships.

**Governments**

bestow privilege to protect social values.

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### Confidentiality Under Federal Law

Who has got your back?

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### Washington has got your back!

- ▶ VAWA **requires** grantees to protect confidentiality and privacy of persons receiving or seeking services.
- ▶ FVPSA has the same requirement!
- ▶ VOCA requires confidentiality measures as well.

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## Congress agreed that...

- ▶ VAWA/FVPSA funding
  - + individual survivor information
  - = *survivor controls further disclosure*
- ▶ Personally identifying information:
  - belongs to the survivor,
  - is controlled by survivor &
  - is disclosed by survivor

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## VOCA Agrees:

- ▶ Programs must have policies & procedures to protect victim information
- ▶ Recipients of services must be notified information will not be revealed
  - except for research or statistical purposes.
- ▶ Penalty for violating VOCA confidentiality = up to \$11,000 fine

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## What's "Personally Identifying"?

## What's "Individual Information"?

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### “Personally Identifying Information”

- (A) a first and last name;
- (B) a home or other physical address;
- (C) contact information;
- (D) a social security number; and
- (E) any other information, including date of birth, racial or ethnic background, or religious affiliation, that would serve to identify any individual.

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### *This includes...*

- Funders
- Auditors
- Regulators
- Emergency responders
- Friends and family

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### *Except...*

- VAWA & FVPSA have exception for:
  - Statutory Mandate
  - Court Mandate
  - Law Enforcement, Court & Prosecution generated information

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## Statutory mandate

- ▶ STATUTORY means:
- ▶ Law passed by legislature & signed by executive
  - Not regulations
  - Not policies and protocols
- ▶ MANDATE means:
- ▶ Required to take action
  - Not just allowed to

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## Examples of Statutory Mandate?

- ▶ Mandatory child abuse reporting

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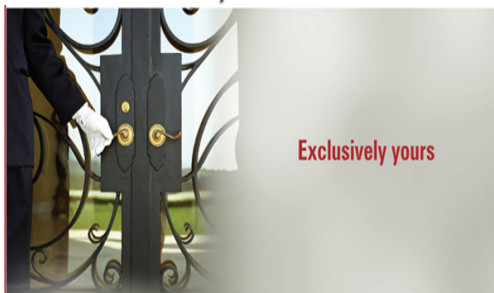
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## Confidentiality in Idaho



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### *Idaho Adopts Federal Confidentiality Standards*

- Service Standards for ICDVVA effective 7/1/2014:
  - If receive Federal or State funds,
  - -> Must comply with Federal confidentiality levels

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### Profession-Specific Rules

- Know your profession's rules & ethics
- Keep a copy for reference
- "May" disclose ≠ "Must" disclose
- Communicate rules to victims in advance
- Have a process for deciding disclosures

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### Court Mandate

- Judicial order
- That judge is allowed to issue
- That has been tested against public policy
- That has been appealed to fullest extent
- That is as narrow and protective as possible

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## Every Judge

- ▶ Has opportunity to protect confidentiality
- ▶ Sometimes, you just need to *ask*

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## *When compelled...*

If compelled release, program shall:

1. make reasonable attempt to provide notice to victims affected by disclosure
2. take steps necessary to protect the privacy and safety of the persons affected by release of information

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## Reporting to Funders

- ▶ What do they ask for?
- ▶ Is that reporting "request" a mandate under VAWA/FVPSA/Idaho?
- ▶ How can we respond?

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## Requests from Child Protection

- What can you do?
- What can't you do?
- How do you respond?

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## What other demands worry you?

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## Does Consent solve the problem?

- Only a W.I.T.S. one does:
- Written
- Informed
- Time-Limited
- Survivor-Centered & Specific

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## Consent...

- ▶ **NEVER** a condition of services

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## Learning Objectives

- ▶ **Understand** narrow exception to confidentiality.
- ▶ **Believe** in your right to question whether a demand for information violates confidentiality.
- ▶ **Practice** assessing and responding to demands for information.

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## Resources

- ▶ FAQ's, Tipsheets, Templates, Law:
  - [tools.nnedv.org](http://tools.nnedv.org)
  - [www.confidentialityinstitute.org](http://www.confidentialityinstitute.org)
- ▶ Questions:
  - [alicia@confidentialityinstitute.org](mailto:alicia@confidentialityinstitute.org)
  - [safetynet@nnedv.org](mailto:safetynet@nnedv.org)

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